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HARRINGTON & SMITH, LLP 4 RESEARCH DRIVE SHELTON, CT 06484-6212			MCCARTHY, CHRISTOPHER S	
			ART UNIT	PAPER NUMBER
			2113	

DATE MAILED: 11/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/666,970

Applicant(s)

NICHOLSON ET AL.

Examiner

Christopher S. McCarthy

Art Unit

2113

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19-24, 26-38 and 41-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-24, 26-38 and 41-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>response to arguments</u> .            |

Art Unit: 2113

### **DETAILED ACTION**

1. Claims 1-4, 6-12, 14-15, 17, 19-20, 22-23, 27-38, 41-43 are rejected under 35

U.S.C. 102(b) as being anticipated by Nolet U.S. Patent 6,138,249

2. Claims 5, 13, 16, 21, 24, 26, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolet in view of Ballard U.S. Patent Application Publication US2003/0088538.

### ***Specification***

3. The amendment filed 9/14/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

In both of these cases the new microcode may be available for download via the internet (e.g., the world wide web).

The examiner cannot find in the original disclosure where the world wide web is disclosed

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Art Unit: 2113

5. Claims 3,29,34-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The applicant has amended the specification and the claims to include the language of "world wide web". The examiner does not find support in the original disclosure for this new matter. The examiner interprets the new matter to be meant as distinctive language from the disclosed "internet" language, in that, the applicant has remarked that the applied art references do not teach a world wide web, and further states that therefore this language overcomes the applied art. Either the applicant should show the examiner where the world wide web is supported in the original specification and is distinctive to the taught "internet", or the language should be canceled.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-12, 14-15, 17, 19-20, 22-23, 27-38, 41-43 are rejected under 35

U.S.C. 102(b) as being anticipated by Nolet U.S. Patent 6,138,249.

As per claim 1, Nolet teaches a server for improving predictive failure attributes of distributed devices (column 7, lines 55-58; column 8, line 57), comprising: a receiver for receiving, via a network, failure analysis data from individual ones of a plurality of distributed devices (column 7, lines 55-60); where each device of said plurality of distributed devices comprises failure analysis software comprising a predictive failure analysis algorithm arranged for collecting failure analysis data of said distributed device (column 8, lines 29-48, wherein each device has a software agent that tests/monitors the device and transmits that information; column 1, line 62 – column 2, line 8, wherein, the collected data at the distributed devices can be used for predicting future problems in the manufacturing process); and a communications device and arranged for transmitting said failure analysis data to said network (column 5, lines 18-29; column 8, lines 33-36; column 6, lines 48-67) wherein said server is arranged for analyzing said failure analysis data and for providing in response to the analysis an updated predictive failure analysis algorithm to the plurality of distributed devices via the network (column 8, lines 57-59, 40-48; column 18, lines 1-4, wherein the central monitoring center gets the service requests from the devices and analyses the data to see which monitoring/testing software the device is currently running, if the currently used software is not the most up to date, the center transmits the most current updated software to the devices for the future monitoring of the devices; column 13, line 59 – column 14, line 9).

As per claim 2, Nolet teaches the server of claim 1, wherein each of said plurality of devices comprises an algorithm for managing an operation of a failure tolerant component and wherein said updated predictive failure analysis algorithm provides for improved operation of

Art Unit: 2113

said failure tolerant component (column 13, line 65 – column 14, lines 1, 7-9; column 18, lines 1-4).

As per claim 3, Nolet teaches the server of claim 1, wherein said updated algorithm is transmitted to said each device via said network, wherein the network is the world wide web (column 17, lines 50-54, wherein, Nolet teaches the network to be on the Internet. *Microsoft Computer Dictionary* defines the Internet to be a worldwide collection of networks that includes the service of the world wide web (page 242)).

As per claim 4, Nolet teaches the server of claim 1, wherein said failure analysis data is used to improve at least one of design and manufacturing for future distributed devices (column 2, lines 3-8, wherein it is implicitly taught that these records would be used in future testing/manufacturing).

As per claim 6, Nolet teaches the server of claim 1 wherein each of said plurality of devices is coupled to said network via an intermediary software agent (column 8, lines 29-41).

As per claim 7, Nolet teaches the server of claim 6 wherein said intermediary software agent is installed on a local server (column 9, lines 57-59).

As per claim 8, Nolet teaches the server of claim 7, wherein said local server comprises a database arranged for storing said failure analysis data, said local server being arranged for periodically uploading said failure analysis data to said server (column 8, lines 5-9).

As per claim 9, Nolet teaches a device comprising: a predictive failure analysis algorithm arranged for collecting failure analysis data of said device (column 1, line 62 – column 2, line 8, wherein, the collected data at the distributed devices can be used for predicting future problems in the manufacturing process); and, a communications device coupled to said failure sensing

Art Unit: 2113

function and arranged for transmitting said failure analysis data to a remote server via a network, wherein said remote server is arranged for analyzing said failure analysis data received from said device and from other devices and for providing an updated predictive failure analysis algorithm to the device and the other devices (column 5, lines 18-29; column 33-36; column 6, lines 48-67; column 8, lines 57-64).

As per claim 10, Nolet teaches the device of claim 9 wherein said device includes an algorithm for managing the operation of a failure tolerant component of said device and wherein said updated predictive failure analysis algorithm provides improved operation of said failure tolerant component (column 13, line 65 – column 14, lines 1, 7-9; column 18, lines 1-4).

As per claim 11, Nolet teaches the device of claim 10 wherein said updated predicted failure analysis algorithm is transmitted from the remote server to said device via said network (column 17, lines 50-54).

As per claim 12, Nolet teaches the device of claim 9, wherein said failure analysis data is used to improve at least one of design and manufacturing for future devices (column 2, lines 3-8, wherein it is implicitly taught that these records would be used in future testing/manufacturing).

As per claim 14, Nolet teaches the device of claim 9 wherein said device is coupled to said network via an intermediary software agent (column 8, lines 29-41).

As per claim 15, Nolet teaches the device of claim 14 wherein said intermediary software agent is installed on a local server (column 9, lines 57-59).

As per claim 17, Nolet teaches a method for performing predictive data analysis using a central server (column 10, line 67 – column 11, line 10; column 19, lines 6-29), said method comprising: collecting failure analysis data in individual ones of a plurality of distributed devices

Art Unit: 2113

in which each of the distributed devices uses a predictive failure analysis algorithm (column 7, lines 55-60; column 1, line 62 – column 2, line 8, wherein, the collected data at the distributed devices can be used for predicting future problems in the manufacturing process); receiving said failure analysis data at the central server from a network coupled to each device of said plurality of distributed devices (column 5, lines 18-29; column 8, lines 33-36; column 6, lines 48-67); analyzing said failure analysis data received from said each device at the central server; and in response to the analysis, providing an updated prediction failure analysis algorithm from the central server to the distributed devices (column 8, lines 57-59, 40-48; column 18, lines 1-4, wherein the central monitoring center gets the service requests from the devices and analyses the data to see which monitoring/testing software the device is currently running, if the currently used software is not the most up to date, the center transmits the most current updated software to the devices for the future monitoring of the devices; column 13, line 59 – column 14, line 9).

As per claim 19, Nolet teaches the method of claim 17 wherein said updated predictive failure analysis algorithm is transmitted to said device via said network (column 17, lines 50-54).

As per claim 20, Nolet teaches the method of claim 17, wherein said updated predictive failure analysis algorithm is used to improve at least one of design and manufacturing for future devices (column 2, lines 3-8, wherein it is implicitly taught that these records would be used in future testing/manufacturing).

As per claim 22, Nolet teaches the method of claim 19 wherein said each device is coupled to said network via an intermediary software agent installed on a local server (column 8, lines 39-41; column 18, lines 1-4).



As per claim 23, Nolet teaches the method of claim 22 wherein said intermediary software agent is installed on a local server (column 9, lines 57-59).

As per claim 27, Nolet teaches a server as in claim 6, wherein said agent uses an interrogator (column 8, lines 40-46).

As per claim 28, Nolet teaches a server as in claim 6, wherein said agent uses a communications path other than that used for normal input and output (I/O) operations (column 11, lines 41-46).

As per claim 29, Nolet teaches a computer program comprising computer readable program code stored on a computer readable medium for performing failure analysis of a plurality of disk drives that comprise a part of at least one data storage system (column 8, line 65 – column 10, line 3), comprising first program code for collecting failure analysis data from individual ones of said disk drives and for transmitting said collected failure analysis data to a central server via the world wide web (WWW) (column 7, lines 55-60; column 5, lines 18-29; column 8, lines 33-36; column 6, lines 48-67; column 17, lines 50-54, wherein, Nolet teaches the network to be on the Internet. *Microsoft Computer Dictionary* defines the Internet to be a worldwide collection of networks that includes the service of the world wide web (page 242)).

As per claim 30, Nolet teaches a computer program as in claim 29, further comprising second program code, executed at said central server, for analyzing said failure analysis data received from said world wide web and deriving an updated predictive failure analysis algorithm therefrom (column 8, lines 57-64).

As per claim 31, Nolet teaches a computer program as in claim 30, where said updated predictive failure analysis algorithm comprises revised disk drive operating program code that is

Art Unit: 2113

downloaded to said plurality of disk drives via said world wide web (column 13, line 65 – column 14, lines 1, 7-9).

As per claim 32, Nolet teaches a computer program as in claim 29, where said first program code is executed by a local server that comprises a part of said data storage system, and where said collected failure analysis data is locally stored in said data storage system prior to being transmitted to said central server (column 5, lines 18-29; column 8, lines 33-36; column 6, lines 48-67).

As per claim 33, Nolet teaches a computer program as in claim 29, where said first program code is executed by a local server that comprises a part of said data storage system, and where said collected failure analysis data is transmitted to said central server as it is collected (column 5, lines 18-29; column 8, lines 33-36; column 6, lines 48-67).

As per claim 34, Nolet teaches a computer program comprising computer readable program code stored on a computer readable medium for performing failure analysis of a plurality of disk drives that comprise a part of at least one data storage system, comprising first program code, executed by a server, for receiving, via the world wide web (WWW), failure analysis data from said at least one data storage system for analyzing said failure analysis data and for deriving updated predictive failure analysis algorithm therefrom (column 7, lines 55-60; column 8, lines 57-64; column 17, lines 50-54, wherein, Nolet teaches the network to be on the Internet. *Microsoft Computer Dictionary* defines the Internet to be a worldwide collection of networks that includes the service of the world wide web (page 242)).

As per claim 35, Nolet teaches a computer program as in claim 34, further comprising second program code, executed by a component of said at least one data storage system, for

Art Unit: 2113

collecting and transmitting said failure analysis data to said central server via said world wide web (column 5, lines 18-29; column 8, lines 33-36; column 6, lines 48-67; column 17, lines 50-54, wherein, Nolet teaches the network to be on the Internet. *Microsoft Computer Dictionary* defines the Internet to be a worldwide collection of networks that includes the service of the world wide web (page 242)).

As per claim 36, Nolet teaches a computer program as in claim 34, where said updated predictive failure analysis algorithm comprises revised disk drive operating program code that is downloaded to said plurality of disk drives via said world wide web (column 13, line 65 – column 14, lines 1, 7-9; column 17, lines 50-54, wherein, Nolet teaches the network to be on the Internet. *Microsoft Computer Dictionary* defines the Internet to be a worldwide collection of networks that includes the service of the world wide web (page 242)).

As per claim 37, Nolet teaches a computer program as in claim 35, where said second program code is executed by a local server that comprises a part of said data storage system, and where said collected failure analysis data is locally stored in said data storage system prior to being transmitted to said central server (column 5, lines 18-29; column 8, lines 33-36; column 6, lines 48-67).

As per claim 38, Nolet teaches a computer program as in claim 35, where said second program code is executed by a local server that comprises a part of said data storage system, and where said collected failure analysis data is transmitted to said central server as it is collected (column 5, lines 18-29; column 8, lines 33-36; column 6, lines 48-67).

As per claim 41, Nolet teaches a system for monitoring performance of a plurality of distributed devices via a network (column 7, lines 55-60), comprising: a network; a central server

Art Unit: 2113

having a monitoring capability (column 7, lines 56-58, column 8, lines 57-59), the central server being coupled to the network; a plurality of distributed devices which are coupled to the network and which are monitored by the central server via the network (column 7, lines 55-60), each of the plurality of distributed devices having a failure data analysis capability provided by a predictive failure analysis algorithm of the corresponding distributed device (column 8, lines 39-48), each of the plurality of distributed devices providing predictive failure data to the central server via the network (column 8, lines 29-48, wherein each device has a software agent that tests/monitors the device and transmits that information; column 1, line 62 – column 2, line 8, wherein, the collected data at the distributed devices can be used for predicting future problems in the manufacturing process), wherein the central server modifies the predictive failure analysis algorithm based on the predictive failure data to provide an updated predictive failure analysis algorithm network (column 8, lines 57-59, 40-48; column 18, lines 1-4, wherein the central monitoring center gets the service requests from the devices and analyses the data to see which monitoring/testing software the device is currently running, if the currently used software is not the most up to date, the center transmits the most current updated software to the devices for the future monitoring of the devices; column 13, line 59 – column 14, line 9).

As per claim 42, Nolet teaches a system as claimed in claim 41, wherein the updated predictive failure analysis algorithm is provided to distributed devices being manufactured device (column 8, lines 29-48, wherein each device has a software agent that tests/monitors the device and transmits that information; column 1, line 62 – column 2, line 8, wherein, the collected data at the distributed devices can be used for predicting future problems in the manufacturing process).

As per claim 43, Nolet teaches a system as claimed in claim 41, wherein the updated predictive failure analysis algorithm is provided to each of the plurality of distributed devices via the network, wherein the distributed devices are data storage units (column 9, lines 31-40).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5, 13, 16, 21, 24, 26, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nolet in view of Ballard U.S. Patent Application Publication US2003/0088538.

As per claims 5, Nolet teaches the server of claim 1. Nolet does not explicitly teach wherein said failure information provides an indication of operating lifespan of said plurality of distributed devices. Ballard does teach wherein said failure information provides an indication of operating lifespan of said plurality of distributed devices (paragraph 0013). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the failure information process of Ballard in the failure information process of Nolet. One of ordinary skill in the art would have been motivated to use the failure information process of Ballard in the failure information process of Nolet because Ballard teaches the transmission of

Art Unit: 2113

remote device diagnostic information to a central location to assist the consumer (paragraphs 0010, 0013); and explicit desire of Nolet (column 5, lines 7-11).

As per claim 13, Nolet teaches the device of claim 9. Nolet does not explicitly teach wherein said failure information provides an indication of operating lifespan of said device. Ballard does teach wherein said failure information provides an indication of operating lifespan of said plurality of distributed devices (paragraph 0013). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the failure information process of Ballard in the failure information process of Nolet. One of ordinary skill in the art would have been motivated to use the failure information process of Ballard in the failure information process of Nolet because Ballard teaches the transmission of remote device diagnostic information to a central location to assist the consumer (paragraphs 0010, 0013); an explicit desire of Nolet (column 5, lines 7-11).

As per claim 16, Nolet teaches the device of claim 15 wherein said local server includes a database arranged for storing said failure analysis data from said device, said local server being arranged for periodically uploading said failure analysis data to a server (column 8, lines 5-9). Nolet does not explicitly teach wherein the server is a manufacturer's server. Ballard does teach wherein the server is a manufacturer's server (paragraph 0011). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the failure information process of Ballard in the failure information process of Nolet. One of ordinary skill in the art would have been motivated to use the failure information process of Ballard in the failure information process of Nolet because Ballard teaches the transmission of remote device

Art Unit: 2113

diagnostic information to a central location to assist the consumer (paragraphs 0010, 0013); an explicit desire of Nolet (column 5, lines 7-11).

As per claim 21, Nolet teaches the method of claim 17. Nolet does not explicitly teach wherein said failure information provides an indication of operating lifespan of said device. Ballard does teach wherein said failure information provides an indication of operating lifespan of said plurality of distributed devices (paragraph 0013). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the failure information process of Ballard in the failure information process of Nolet. One of ordinary skill in the art would have been motivated to use the failure information process of Ballard in the failure information process of Nolet because Ballard teaches the transmission of remote device diagnostic information to a central location to assist the consumer (paragraphs 0010, 0013); an explicit desire of Nolet (column 5, lines 7-11).

As per claim 24, Nolet teaches the method of claim 23 wherein said local server includes a database arranged for storing said failure analysis data, said local server being arranged for periodically uploading said failure analysis data to a server (column 8, lines 5-9). Nolet does not explicitly teach wherein the server is a manufacturer's server. Ballard does teach wherein the server is a manufacturer's server (paragraph 0011). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the failure information process of Ballard in the failure information process of Nolet. One of ordinary skill in the art would have been motivated to use the failure information process of Ballard in the failure information process of Nolet because Ballard teaches the transmission of remote device diagnostic

Art Unit: 2113

information to a central location to assist the consumer (paragraphs 0010, 0013); an explicit desire of Nolet (column 5, lines 7-11).

As per claim 26, Nolet teaches a server as in claim 1. Nolet does not teach wherein said network comprises a firewall, and where said failure analysis data is transmitted using a transmission protocol selected for being able to pass through said firewall. Ballard does teach wherein said network comprises a firewall, and where said failure analysis data is transmitted using a transmission protocol selected for being able to pass through said firewall.(paragraph 0011). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the failure information process of Ballard in the failure information process of Nolet. One of ordinary skill in the art would have been motivated to use the failure information process of Ballard in the failure information process of Nolet because Ballard teaches the transmission of remote device diagnostic information to a central location to assist the consumer (paragraphs 0010, 0013); an explicit desire of Nolet (column 5, lines 7-11).

As per claim 44, Nolet teaches a system as claim in claim 41. Nolet does not teach wherein the central server provides population statistics for distributed device ageing trends to a distributed device manufacturer for planning and budgeting considerations. Ballard does teach wherein the central server provides population statistics for distributed device ageing trends to a distributed device manufacturer for planning and budgeting considerations (paragraph 0013). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the failure information process of Ballard in the failure information process of Nolet. One of ordinary skill in the art would have been motivated to use the failure information process of Ballard in the failure information process of Nolet because Ballard teaches the transmission of



Art Unit: 2113

remote device diagnostic information to a central location to assist the consumer (paragraphs 0010, 0013); an explicit desire of Nolet (column 5, lines 7-11).

### ***Response to Arguments***

9. Applicant's arguments filed 9/14/06 have been fully considered but they are not persuasive.

The applicant has argued that Nolet does not disclose or suggest failure analysis data being provided from a distributed device nor an updated predictive failure analysis algorithm being provided from a central server to the distributed device. The examiner respectfully disagrees. As explained the above rejections, the examiner contends that failure data is provided from the devices, as taught in Nolet wherein he teaches the devices monitoring themselves with an internal agent (column 8, lines 40-42) and these requests can include monitoring the devices to help predict future problems that may have been missed in the manufacturing process (column 1, line 67 – column 2, line 3). This is interpreted to the examiner as the devices monitoring themselves for failure data that is used to predict possible future problems in the manufacturing process. Furthermore, Nolet teaches wherein the device monitoring software is updated by transfer from the central monitoring server to the device if the software is not the latest update (column 18, lines 1-4).

In light of the above arguments, all applicable rejections stand.

### ***Conclusion***

**10. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. McCarthy whose telephone number is (571)272-3651. The examiner can normally be reached on M-F, 9 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

csm

  
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